

# House Daily Reader

**Thursday, February 08, 2001**

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# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

400E0219

HOUSE AGRICULTURE AND NATURAL RESOURCES

COMMITTEE ENGROSSED NO. **HB 1020** -  
02/06/2001

Introduced by: The Committee on Agriculture and Natural Resources at the request of the  
Department of Agriculture

1 FOR AN ACT ENTITLED, An Act to revise certain dairy inspection fees.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 40-32-25 be amended to read as follows:

4 40-32-25. A milk plant or marketing organization of milk, milk products, sheep milk or goat  
5 milk that processes or markets Manufacturing Grade or Grade A milk shall pay an inspection  
6 service fee for each dairy farm. The inspection fee shall be ~~twenty-five~~ fifty dollars per Grade A  
7 or ~~twelve dollars and fifty cents~~ twenty-five dollars per Manufacturing Grade dairy farm and be  
8 paid semiannually by July first and January first to the secretary.

9 Section 2. That § 40-32-26 be amended to read as follows:

10 40-32-26. A reinspection fee of ~~twenty-five~~ seventy-five dollars per inspection shall be paid  
11 to the secretary by the milk plant or marketing organization for each dairy farm inspection  
12 exceeding the required biannual Grade A or annual Manufacturing Grade farm facility inspection  
13 resulting from adverse actions such as farm permit suspension, degrade or unsanitary conditions  
14 to be corrected within a specified period of time.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

316E0498

## HOUSE EDUCATION COMMITTEE ENGROSSED NO. **HB 1158** - 02/02/2001

Introduced by: Representatives Broderick, Abdallah, Brown (Richard), Eccarius, Flowers, Gillespie, Hennies (Thomas), Madsen, and Teupel and Senators Albers and Apa

1 FOR AN ACT ENTITLED, An Act to reallocate a certain portion of state aid to education.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. Notwithstanding the provisions of chapter 13-13, if a student is enrolled pursuant  
4 to § 13-28-43, and the nonresident school district in which the student is enrolled does not  
5 receive state aid to general education, the Department of Education and Cultural Affairs shall  
6 pay state aid to education to the nonresident district in which the student is enrolled. For each  
7 student, the amount of state aid paid shall be the per student allocation as defined in subdivision  
8 13-13-10.1(4). The payment shall be prorated per the number of days the student was enrolled  
9 in the nonresident district compared to the number of days the nonresident district was in session.  
10 The payment shall be made in the succeeding fiscal year.

11 Section 2. That chapter 13-28 be amended by adding thereto a NEW SECTION to read as  
12 follows:

13 Notwithstanding the provisions of § 13-28-40, any student who enrolls in another school  
14 district pursuant to the provisions contained in §§ 13-28-40 to 13-28-47, inclusive, from a

1 district that does not receive state aid pursuant to chapter 13-13 in the succeeding fiscal year  
2 remains the financial obligation of the resident district. For each student, the resident district shall  
3 pay tuition to the nonresident district in the succeeding fiscal year per the following calculation:

4 (1) Multiply the nonresident district's adjusted average daily membership calculated  
5 pursuant to subdivision 13-13-10.1(2) by the per student allocation as defined in  
6 subdivision 13-13-10.1(4);

7 (2) Divide the result of (1) by the nonresident district's average daily membership  
8 calculated pursuant to subdivision 13-13-10.1(1);

9 (3) Multiply the result of (2) by the number of days the student was enrolled in the  
10 nonresident district;

11 (4) Divide the result of (3) by the number of days the nonresident district was in session.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

265E0257

## HOUSE COMMERCE COMMITTEE ENGROSSED NO. **HB 1185** - 02/06/2001

Introduced by: Representative Derby and Senator McCracken

1 FOR AN ACT ENTITLED, An Act to provide certain protections for structured settlements.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. Terms used in this Act mean:

4 (1) "Annuity issuer," an insurer that has issued a contract to fund periodic payments  
5 under a structured settlement;

6 (2) "Dependents," a payee's spouse and any minor child and any other person for whom  
7 the payee is legally obligated to provide support, including alimony;

8 (3) "Discounted present value," the present value of future payments determined by  
9 discounting such payments to the present using the most recently published applicable  
10 federal rate for determining the present value of an annuity, as issued by the United  
11 States Internal Revenue Service;

12 (4) "Gross advance amount," the sum payable to the payee or for the payee's account as  
13 consideration for a transfer of structured settlement payment rights before any  
14 reductions for transfer expenses or other deductions to be made from such  
15 consideration;

- 1       (5)    "Independent professional advice," advice of an attorney, certified public accountant,  
2            actuary, or other licensed professional advisor;
- 3       (6)    "Interested parties," with respect to any structured settlement, the payee, any  
4            beneficiary irrevocably designated under the annuity contract to receive payments  
5            following the payee's death, the annuity issuer, the structured settlement obligor, and  
6            any other party that has continuing rights or obligations under such structured  
7            settlement;
- 8       (7)    "Net advance amount," the gross advance amount less the aggregate amount of the  
9            actual and estimated transfer expenses required to be disclosed under subdivision (5)  
10           of section 2 of this Act;
- 11      (8)    "Payee," an individual who is receiving tax free payments under a structured  
12            settlement and proposes to make a transfer of payment rights thereunder;
- 13      (9)    "Periodic payments," includes both recurring payments and scheduled future lump  
14            sum payments;
- 15      (10)   "Qualified assignment agreement," an agreement providing for a qualified assignment  
16            within the meaning of section 130 of the United States Internal Revenue Code, United  
17            States Code Title 26, as of January 1, 2001;
- 18      (11)   "Responsible administrative authority," with respect to a structured settlement, any  
19            governmental authority vested by law with exclusive jurisdiction over the settled claim  
20            resolved by such structured settlement;
- 21      (12)   "Settled claim," the original tort claim or workers' compensation claim resolved by a  
22            structured settlement;
- 23      (13)   "Structured settlement," an arrangement for periodic payment of damages for  
24            personal injuries or sickness established by settlement or judgment in resolution of a

- 1 tort claim or for periodic payments in settlement of a workers' compensation claim;
- 2 (14) "Structured settlement agreement," the agreement, judgment, stipulation, or release
- 3 embodying the terms of a structured settlement;
- 4 (15) "Structured settlement obligor," with respect to any structured settlement, the party
- 5 that has the continuing obligation to make periodic payments to the payee under a
- 6 structured settlement agreement or a qualified assignment agreement;
- 7 (16) "Structured settlement payment rights," rights to receive periodic payments under a
- 8 structured settlement, whether from the structured settlement obligor or the annuity
- 9 issuer, if at least one of the following applies:
- 10 (a) The payee is domiciled in, or the domicile or principal place of business of the
- 11 structured settlement obligor or the annuity issuer is located in, this state; or
- 12 (b) The structured settlement agreement was approved by a court or responsible
- 13 administrative authority in this state; or
- 14 (c) The structured settlement agreement is expressly governed by the laws of this
- 15 state;
- 16 (17) "Terms of the structured settlement," include, with respect to any structured
- 17 settlement, the terms of the structured settlement agreement, the annuity contract, any
- 18 qualified assignment agreement, and any order or other approval of any court or
- 19 responsible administrative authority or other government authority that authorized or
- 20 approved such structured settlement;
- 21 (18) "Transfer," any sale, assignment, pledge, hypothecation, or other alienation or
- 22 encumbrance of structured settlement payment rights made by a payee for
- 23 consideration. The term, transfer, does not include the creation of perfection of a
- 24 security interest in structured settlement payment rights under a blanket security

1 agreement entered into with an insured depository institution, in the absence of any  
2 action to redirect the structured settlement payments to such insured depository  
3 institution, or an agent or successor in interest thereof, or otherwise to enforce such  
4 blanket security interest against the structured settlement payment rights;

5 (19) "Transfer agreement," the agreement providing for a transfer of structured settlement  
6 payment rights;

7 (20) "Transfer expenses," any expenses of a transfer that are required under the transfer  
8 agreement to be paid by the payee or deducted from the gross advance amount,  
9 including court filing fees, attorneys fees, escrow fees, lien recordation fees, judgment  
10 and lien search fees, finders' fees, commissions, and other payments to a broker or  
11 other intermediary. Transfer expenses do not include preexisting obligations of the  
12 payee payable for the payee's account from the proceeds of a transfer;

13 (21) "Transferee," a party acquiring or proposing to acquire structured settlement payment  
14 rights through a transfer.

15 Section 2. Not less than three days before the date on which a payee signs a transfer  
16 agreement, the transferee shall provide to the payee a separate disclosure statement, in bold type  
17 no smaller than 14 points, setting forth the following information:

18 (1) The amounts and due dates of the structured settlement payments to be transferred;

19 (2) The aggregate amount of such payments;

20 (3) The discounted present value of the payments to be transferred, which shall be  
21 identified as the "calculation of current value of the transferred structured settlement  
22 payments under federal standards for valuing annuities" and the amount of the  
23 applicable federal rate used in calculating such discounted present value;

24 (4) The gross advance amount;



- 1       (5)    An itemized listing of all applicable transfer expenses, other than attorneys' fees and  
2            related disbursements payable in connection with the transferee's application for  
3            approval of the transfer, and the transferee's best estimate of the amount of any such  
4            fees and disbursements;
- 5       (6)    The net advance amount;
- 6       (7)    The amount of any penalties or liquidated damages payable by the payee in the event  
7            of any breach of the transfer agreement by the payee; and
- 8       (8)    A statement that the payee has the right to cancel the transfer agreement, without  
9            penalty or further obligation, not later than the third business day after the date the  
10           agreement is signed by the payee.

11       Section 3. No direct or indirect transfer of structured settlement payment rights is effective  
12   and no structured settlement obligor or annuity issuer is required to make any payment directly  
13   or indirectly to any transferee of structured settlement payment rights unless the transfer has been  
14   approved in advance in a final court order or order of a responsible administrative authority  
15   based on the following express findings by such court or responsible administrative authority:

- 16       (1)    The transfer is in the best interest of the payee, taking into account the welfare and  
17            support of the payee's dependents;
- 18       (2)    The payee has been advised in writing by the transferee to seek independent  
19            professional advice regarding the transfer and has either received such advice or  
20            knowingly waived such advice in writing; and
- 21       (3)    The transfer does not contravene any applicable statute or the order of any court or  
22            other government authority.

23       Section 4. Following a transfer of structured settlement payment rights under this Act:

- 24       (1)    The structured settlement obligor and the annuity issuer shall, as to all parties except

1 the transferee, be discharged and released from any liability for the transferred  
2 payments;

3 (2) The transferee is liable to the structured settlement obligor and the annuity issuer:

4 (a) If the transfer contravenes the terms of the structured settlement, for any taxes  
5 incurred by such parties as a consequence of the transfer; and

6 (b) For any other liabilities or costs, including reasonable costs and attorneys' fees,  
7 arising from compliance by such parties with the order of the court or  
8 responsible administrative authority or arising as a consequence of the  
9 transferee's failure to comply with this Act;

10 (3) Neither the annuity issuer nor the structured settlement obligor may be required to  
11 divide any periodic payment between the payee and any transferee or assignee or  
12 between two or more transferees or assignees; and

13 (4) Any further transfer of structured settlement payment rights by the payee may be  
14 made only after compliance with all of the requirements of this Act.

15 Section 5. An application under this Act for approval of a transfer of structured settlement  
16 payment rights shall be made by the transferee and may be brought in the county in which the  
17 payee resides, in the county in which the structured settlement obligor or the annuity issuer  
18 maintains its principal place of business, or in any court or before any responsible administrative  
19 authority which approved the structured settlement agreement.

20 Not less than twenty days prior to the scheduled hearing on any application for approval of  
21 a transfer of structured settlement payment rights under section 3 of this Act, the transferee shall  
22 file with the court or responsible administrative authority and serve on all interested parties a  
23 notice of the proposed transfer and the application for its authorization, including the following  
24 with such notice:

- 1       (1)    A copy of the transferee's application;
- 2       (2)    A copy of the transfer agreement;
- 3       (3)    A copy of the disclosure statement required under section 2 of this Act;
- 4       (4)    A listing of each of the payee's dependents, together with each dependent's age;
- 5       (5)    Notification that any interested party is entitled to support, oppose, or otherwise
- 6            respond to the transferee's application, either in person or by counsel, by submitting
- 7            written comments to the court or responsible administrative authority or by
- 8            participating in the hearing; and
- 9       (6)    Notification of the time and place of the hearing and notification of the manner in
- 10            which, and the time by which written responses to the application must be filed, which
- 11            may not be less than fifteen days after service of the transferee's notice, in order to be
- 12            considered by the court or responsible administrative authority.

13       Section 6. The provisions of this Act may not be waived by any payee.

14       Section 7. Any transfer agreement entered into on or after the effective date of this Act by

15   a payee who resides in this state shall provide that disputes under such transfer agreement,

16   including any claim that the payee has breached the agreement, shall be determined in and under

17   the laws of this state. No such transfer agreement may authorize the transferee or any other party

18   to confess judgment or consent to entry of judgment against the payee.

19       Section 8. No transfer of structured settlement payment rights may extend to any payments

20   that are life-contingent unless, prior to the date on which the payee signs the transfer agreement,

21   the transferee has established and has agreed to maintain procedures reasonably satisfactory to

22   the annuity issuer and the structured settlement obligor for periodically confirming the payee's

23   survival and giving the annuity issuer and the structured settlement obligor prompt written notice

24   in the event of the payee's death.

1       Section 9. No payee who proposes to make a transfer of structured settlement payment rights  
2       may incur any penalty, forfeit any application fee or other payment, or otherwise incur any  
3       liability to the proposed transferee or any assignee based on any failure of such transfer to satisfy  
4       the conditions of this Act.

5       Section 10. Nothing contained in this Act authorizes any transfer of structured settlement  
6       payment rights in contravention of any law or to imply that any transfer under a transfer  
7       agreement entered into prior to the effective date of this Act is valid or invalid.

8       Section 11. Compliance with the requirements set forth in section 2 of this Act and fulfillment  
9       of the conditions set forth in section 3 of this Act shall be solely the responsibility of the  
10      transferee in any transfer of structured settlement payment rights, and neither the structured  
11      settlement obligor nor the annuity issuer bears any responsibility for, or any liability arising from,  
12      noncompliance with such requirements or failure to fulfill such conditions.

13      Section 12. This Act applies to any transfer of structured settlement payment rights under  
14      a transfer agreement entered into on or after July 1, 2001. Nothing contained in this Act implies  
15      that any transfer under a transfer agreement reached prior to such date is either effective or  
16      ineffective.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

624E0710

## HOUSE EDUCATION COMMITTEE ENGROSSED NO. **HB 1196** - 01/31/2001

Introduced by: Representatives Begalka, Flowers, Garnos, Hennies (Thomas), Holbeck,  
and Kooistra and Senator Munson

1 FOR AN ACT ENTITLED, An Act to authorize the funding of textbooks through the school  
2 capital outlay fund.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 13-16-6 be amended to read as follows:

5 13-16-6. The capital outlay fund of the school district is a fund provided by law to meet  
6 expenditures of three hundred dollars or more which result in the acquisition or lease of or  
7 additions to real property, plant, or equipment. Such an expenditure shall be for land, existing  
8 facilities, improvement of grounds, construction of facilities, additions to facilities, remodeling  
9 of facilities, or for the purchase or lease of equipment. It may also be used for installment or  
10 lease-purchase payments for the purchase of real property, plant or equipment, which have a  
11 contracted terminal date not exceeding twenty years from the date of the installment contract or  
12 lease-purchase and for the payment of the principal of and interest on capital outlay certificates  
13 issued pursuant to § 13-16-6.2. The total accumulated unpaid principal balances of such  
14 installment contracts and lease-purchase and the outstanding principal amounts of such capital

1 outlay certificates may not exceed three percent of the taxable valuation. The school district shall  
2 provide a sufficient levy each year under the provisions of § 13-16-7 to meet the annual  
3 installment contract, lease-purchase and capital outlay certificate payments, including interest.

4 A school district which contracts its student transportation may expend from the capital  
5 outlay fund an amount not to exceed fifteen percent of the contract amount.

6 The capital outlay fund may be used to purchase textbooks and instructional software.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

655E0510

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

**HB 1198** - 02/05/2001

Introduced by: Representative Duniphan and Senator Albers

1 FOR AN ACT ENTITLED, An Act to provide for a possessory lien on the contents of certain  
2 towed vehicles.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 32-30-18 be amended to read as follows:

5 32-30-18. The sheriff, law enforcement officer, or towing agency taking custody of any  
6 vehicle under the provisions of §§ 32-30-12 to 32-30-17, inclusive, 32-30-19, and 32-36-4 ~~shall~~  
7 ~~have~~ has a possessory lien on the vehicle and the contents of the vehicle for the reasonable costs  
8 in taking custody and storing of the vehicle which may not exceed five hundred dollars. No  
9 possessory lien attaches to the tools and implements which a person uses and keeps for the  
10 purpose of carrying on his or her trade or business or to any clothing or food.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

528E0067

## HOUSE LOCAL GOVERNMENT COMMITTEE

### ENGROSSED NO. **HB 1199** - 02/06/2001

Introduced by: Representatives Bartling, Broderick, Duniphan, Flowers, Klaudt, and  
Monroe and Senators Koetzle, Albers, and Reedy

1 FOR AN ACT ENTITLED, An Act to adjust the salary schedule for county officials.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 7-7-9.1 be amended to read as follows:

4 7-7-9.1. The board of county commissioners shall establish, by resolution, the salary payable  
5 to the county treasurer, county auditor, and county register of deeds ~~shall be established by each~~  
6 ~~board of county commissioners, by resolution, but.~~ The salary payable may not be less than the  
7 following schedule ~~and be as~~ based upon the most recent decennial federal census of population  
8 for counties:

9	County Population	Salary Schedule
10	Below 10,000	<del>\$20,689</del> <u>23,189</u>
11	10,000-14,999	<del>21,234</del> <u>23,734</u>
12	15,000-24,999	<del>22,305</del> <u>24,805</u>
13	25,000-69,999	<del>24,983</del> <u>27,483</u>
14	70,000 and over	<del>27,324</del> <u>29,824</u>

15 The board of county commissioners may not decrease the salary of the county treasurer,



county auditor, or county register of deeds during ~~the term~~ consecutive terms of office of the county treasurer, county auditor, or county register of deeds.

Section 2. Section 1 of this Act is effective on January 1, 2002.

Section 3. That § 7-7-9.1 be amended to read as follows:

7-7-9.1. The board of county commissioners shall establish, by resolution, the salary payable to the county treasurer, county auditor, and county register of deeds ~~shall be established by each board of county commissioners, by resolution, but.~~ The salary payable may not be less than the following schedule ~~and be as~~ based upon the most recent decennial federal census of population for counties:

County Population	Salary Schedule
Below 10,000	<del>\$20,689</del> <u>25,689</u>
10,000-14,999	<del>21,234</del> <u>26,234</u>
15,000-24,999	<del>22,305</del> <u>27,305</u>
25,000-69,999	<del>24,983</del> <u>29,983</u>
70,000 and over	<del>27,324</del> <u>32,324</u>

The board of county commissioners may not decrease the salary of the county treasurer, county auditor, or county register of deeds during ~~the term~~ consecutive terms of office of the county treasurer, county auditor, or county register of deeds.

Section 4. Section 3 of this Act is effective on January 1, 2003.

Section 5. That chapter 7-7 be amended by adding thereto a NEW SECTION to read as follows:

The board of county commissioners shall establish, by resolution, the salary payable for the combination of two or more of the following county elected positions. The salary payable may not be less than the minimum salary provided by this section as based upon the most recent decennial federal census of population for counties.

1 For the combination of two of the following: county treasurer, county auditor, or county  
2 register of deeds, the minimum salary for counties shall be:

3	County Population	Salary Schedule
4	Below 10,000	\$27,000
5	10,000-14,999	28,500
6	15,000-24,999	30,000
7	25,000-69,999	33,000
8	70,000 and over	36,000

9 For the combination of all three of the following: county treasurer, county auditor, or county  
10 register of deeds, the minimum salary for counties shall be:

11	County Population	Salary Schedule
12	Below 10,000	\$29,000
13	10,000-14,999	30,500
14	15,000-24,999	32,000
15	25,000-69,999	35,000
16	70,000 and over	39,000

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# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

451E0693

## HOUSE EDUCATION COMMITTEE ENGROSSED NO. **HB 1227** - 02/06/2001

Introduced by: Representatives Teupel, Derby, and Rhoden and Senators Apa and Kleven

1 FOR AN ACT ENTITLED, An Act to include certain students in the state aid to education  
2 formula.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 13-13-1.8 be amended to read as follows:

5 13-13-1.8. ~~Students attending the Black Hills Forest High School in Lawrence County may~~  
6 ~~not be included by any school district in its average daily membership for purposes of state aid~~  
7 ~~to education.~~ Students attending the Black Hills Forest High School in Lawrence County shall  
8 be included by their resident school district in its average daily membership calculation for  
9 purposes of state aid to education if the resident school district is paying tuition for placement  
10 at the Black Hills Forest High School.

11 Section 2. The per student allocation for any student identified in § 13-13-1.8 may not  
12 exceed the amount of tuition paid by the resident school district for that student.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

582E0592

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB 1252** - 02/06/2001

Introduced by: Representatives Davis, Abdallah, Bartling, Begalka, Bradford, Broderick, Brown (Jarvis), Brown (Richard), Burg, Clark, Derby, Duenwald, Duniphan, Eccarius, Elliott, Frost, Fryslie, Garnos, Glenski, Hansen (Tom), Hanson (Gary), Hargens, Heineman, Hennies (Don), Hennies (Thomas), Holbeck, Hundstad, Hunhoff, Jaspers, Jensen, Juhnke, Konold, Kooistra, Lange, Lintz, Madsen, McCaulley, McCoy, Michels, Monroe, Murschel, Nachtigal, Olson (Mel), Pederson (Gordon), Peterson (Bill), Peterson (Jim), Pitts, Pummel, Richter, Sebert, Sigdestad, Slaughter, Smidt, Solum, Sutton (Duane), Teupel, Valandra, Van Etten, Van Gerpen, Van Norman, and Wick and Senators Brown (Arnold), Albers, Apa, Brosz, Daugaard, de Hueck, Dennert, Diedrich (Larry), Diedrich (Elmer), Drake, Duxbury, Everist, Greenfield, Hutmacher, Kleven, Koetzle, Madden, McCracken, McIntyre, Moore, Munson, Olson (Ed), Putnam, Staggers, Sutton (Dan), Symens, and Vitter

1 FOR AN ACT ENTITLED, An Act to establish a statewide voter registration file and to make  
2 an appropriation therefor.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 12-4 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 The secretary of state shall establish a computerized system for maintaining and utilizing the  
7 voter registration file and transmitting voter registration information from each county auditor  
8 to the Office of the Secretary of State. Each county auditor shall furnish the current master

1 registration file of voters as provided in § 12-4-9 in computer format to the secretary of state by  
2 January 1, 2002. Each county auditor shall transmit any changes thereafter to the master  
3 registration file to the secretary of state on a daily basis.

4 Section 2. That chapter 12-4 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 The statewide voter registration file maintained by the secretary of state shall be considered  
7 a duplicate file of the official voter registration records held in each county office. If there is any  
8 discrepancy between the statewide voter registration file maintained by the secretary of state and  
9 the master registration file maintained by the county auditor, the master registration file  
10 maintained by the county auditor is the official file.

11 Section 3. That chapter 12-4 be amended by adding thereto a NEW SECTION to read as  
12 follows:

13 The secretary of state may promulgate rules pursuant to chapter 1-26 concerning:

- 14 (1) Procedures for the establishing the statewide voter registration file;
- 15 (2) Transmission of the voter registration information from the county to the Office of the  
16 Secretary of State;
- 17 (3) Procedures for determining duplicate voter registration;
- 18 (4) Dissemination of the information from the statewide voter registration file; and
- 19 (5) Establishment of fees for information provided from the statewide voter registration  
20 file.

21 Section 4. That chapter 12-4 be amended by adding thereto a NEW SECTION to read as  
22 follows:

23 The secretary of state may use the statewide voter registration file to identify any duplicate  
24 voter registration within the state. If the secretary of state has determined that there is a duplicate

1 voter registration, the secretary of state shall notify the county whose official master registration  
2 file contains the oldest duplicate registration and such county shall remove the person from the  
3 voter registration file. If the secretary of state has identified a potential duplicate voter  
4 registration, the secretary of state shall notify the person registered in the county whose official  
5 master registration file contains the oldest potential duplicate registration. The secretary of state  
6 shall notify such person in a manner consistent with the provisions of § 12-4-19.1.

7 Section 5. That chapter 9-4 be amended by adding thereto a NEW SECTION to read as  
8 follows:

9 No information obtained from the statewide voter registration file may be used or sold for  
10 any commercial purpose. For the purpose of this section, the term, commercial purpose, does  
11 not include campaign or political polling activities. Any violation of this section is a Class 2  
12 misdemeanor.

13 Section 6. That § 12-4-9 be amended to read as follows:

14 ~~12-4-9. The county auditor shall maintain a list of voters in paper or computer format which~~  
15 ~~shall be properly indexed, so made and arranged as to contain a list of all persons registered,~~  
16 ~~alphabetically arranged according to surnames, residing in each voting precinct within the county.~~  
17 ~~The list shall be kept at the office of the county auditor and properly safeguarded. This list shall~~  
18 ~~be known as the "master registration list," and may not be removed from the office except upon~~  
19 ~~an order of a court of competent jurisdiction. The "master registration list" shall be, at all times~~  
20 ~~during office hours, open to public inspection and safeguard a file of voters in computer format~~  
21 that contains each person registered in each voting precinct within the county. This file shall be  
22 known as the master registration file and shall be, at all times during office hours, open to public  
23 inspection. However, public access to social security numbers and driver license numbers  
24 contained in the master registration file shall be restricted. The master registration file shall

1 contain all information from each voter's registration card except the description of the location  
2 of the voter's residence. The master registration file shall also include the date of the last election  
3 the voter has voted in and when the voter's information was last updated. The master registration  
4 file may also contain additional voter history information.

5       Section 7. There is hereby appropriated from the general fund the sum of two hundred  
6 thousand dollars (\$200,000), or so much thereof as may be necessary, to the secretary of state  
7 for hardware, software, development, and any other costs that may be incurred to establish a  
8 statewide voter registration file.

9       Section 8. The secretary of state shall approve vouchers and the state auditor shall draw  
10 warrants to pay expenditures authorized by this Act.

11       Section 9. Any amounts appropriated in this Act not lawfully expended or obligated by  
12 June 30, 2002, shall revert in accordance with § 4-8-21.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

172E0173

## SENATE EDUCATION COMMITTEE ENGROSSED NO. **SB 91** - 01/25/2001

Introduced by: Senators Albers, Dennert, Diedrich (Larry), Hutmacher, Koetzle, McCracken, McIntyre, Moore, Munson, Olson (Ed), and Symens and Representatives Michels, Broderick, Brown (Richard), Davis, Duniphan, Elliott, Flowers, Hennies (Thomas), Holbeck, Jaspers, Juhnke, Kooistra, Madsen, McCaulley, Murschel, Olson (Mel), Richter, and Smidt

1 FOR AN ACT ENTITLED, An Act to exempt certain school district employees from the  
2 requirement for certain background checks.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 13-10-12 be amended to read as follows:

5 13-10-12. Each person over eighteen years of age hired by a school district shall submit to  
6 a criminal background investigation, by means of fingerprint checks by the Division of Criminal  
7 Investigation and the Federal Bureau of Investigation. The school district shall submit completed  
8 fingerprint cards to the Division of Criminal Investigation before the prospective new employee  
9 enters into service. If no disqualifying record is identified at the state level, the fingerprints shall  
10 be forwarded by the Division of Criminal Investigation to the Federal Bureau of Investigation  
11 for a national criminal history record check. Any person whose employment is subject to the  
12 requirements of this section may enter into service on a temporary basis pending receipt of  
13 results of the criminal background investigation. The employing school district may, without



1 liability, withdraw its offer of employment or terminate the temporary employment without  
2 notice if the report reveals a disqualifying record. Any person whose employment is subject to  
3 the requirements of this section shall pay any fees charged for the criminal record check.  
4 However, the school board or governing body may reimburse the person for the fees. Any person  
5 hired to officiate, judge, adjudicate, or referee an event conducted under the authority of the  
6 South Dakota High School Activities Association is not required to submit to a criminal  
7 background investigation as required in this section. In addition, any person employed by a  
8 postsecondary technical institute is not required to submit to a criminal background investigation  
9 as required in this section, unless the person is a teacher who teaches an elementary or secondary  
10 level course in an elementary or secondary school facility, or unless the person is an employee,  
11 other than a teacher, whose work assignment includes working in an elementary or secondary  
12 school facility.

# State of South Dakota

## SEVENTY-SIXTH SESSION LEGISLATIVE ASSEMBLY, 2001

633E0291

## SENATE EDUCATION COMMITTEE ENGROSSED NO. **SB 93** - 01/25/2001

Introduced by: Senators Ham, Albers, Brosz, Brown (Arnold), Daugaard, Dennert, Diedrich (Larry), Diedrich (Elmer), Everist, Hagen, Koetzle, McCracken, McIntyre, Moore, Olson (Ed), and Vitter and Representatives Brown (Richard), Adelstein, Begalka, Broderick, Brown (Jarvis), Clark, Duenwald, Frost, Fryslie, Garnos, Gillespie, Hansen (Tom), Heineman, Hennies (Thomas), Holbeck, Hunhoff, Jaspers, Jensen, Juhnke, Konold, Lintz, Madsen, McCaulley, McCoy, Michels, Murschel, Nesselhuf, Olson (Mel), Pederson (Gordon), Peterson (Bill), Pummel, Rhoden, Richter, Sebert, Slaughter, Smidt, Solum, Teupel, Van Etten, and Wick

1 FOR AN ACT ENTITLED, An Act to revise certain provisions related to the investment of  
2 permanent school funds and to declare an emergency.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 5-10 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 In adjusting the principal of the common school permanent fund and other educational and  
7 charitable funds by the rate of inflation pursuant to Article VIII, Section 3 of the South Dakota  
8 Constitution, the state investment council shall proceed as follows:

9 (1) The inflation adjustment period is the fiscal year, beginning July first and ending June  
10 thirtieth. The first inflation adjustment period begins on November 15, 2000, and ends  
11 on June 30, 2001. The principal shall be credited each year for the inflation adjustment

1 at the time of the common school apportionment beginning in 2002;

2 (2) The rate of inflation is based on the consumer price index prepared by the Bureau of  
3 Labor Statistics of the United States Department of Labor;

4 (3) The principal balance in each permanent school and other educational and charitable  
5 fund as of November 15, 2000, adjusted by amounts as provided by law, is the  
6 principal balance to be increased by the rate of inflation; and

7 (4) The inflation adjustment requirement shall be met using realized net capital gains. If  
8 these are not sufficient, the interest, dividends, and other income shall be used. Any  
9 excess realized net capital gains shall be carried forward for the following year's  
10 inflation adjustment.

11 Section 2. That § 4-5-26 be amended to read as follows:

12 4-5-26. Money made available for investment may be invested in the following classes of  
13 securities and investments and, except as provided by § 3-12-117, chapter 3-13, ~~and~~ the South  
14 Dakota Cement Plant retirement fund, and the permanent school and other educational and  
15 charitable funds, not otherwise:

16 (1) Direct and indirect obligations of the United States government;

17 (2) Agencies and instrumentalities of the United States government;

18 (3) Direct obligations of the State of South Dakota and any of its political subdivisions;

19 (4) Obligations consisting of notes, bonds, debentures, and certificates which are direct  
20 obligations of a solvent corporation or trust existing under the laws of the United  
21 States or any state thereof, provided that such investments shall be rated in the four  
22 highest classifications established by at least two standard rating services;

23 (5) Savings accounts, share accounts, certificates of deposit of banks, savings and loan  
24 associations, building and loan associations and bankers' acceptances.

Section 3. That § 4-8-10 be amended to read as follows:

4-8-10. The commissioner of school and public lands, after any adjustments that have been made pursuant to section 1 of this Act, shall apportion the funds arising from ~~accrued~~ interest, dividends, and other income on invested funds derived from the sale of public lands apportioned to the educational, penal, and charitable institutions of the state, or from leases on such lands.

Section 4. That § 5-10-1.1 be amended to read as follows:

5-10-1.1. There is hereby created in the state treasury a fund called the Board of Regents endowed institution interest and income fund to be administered by the commissioner of school and public lands. Any investments of money in the fund shall be made by the State Investment Council. No allocations or expenditures may be made from the fund except as provided in § 5-10-1.2. The fund shall be declared a participating fund and it shall be credited for all interest, dividends, and other income earned on fund balances, in accordance with the provisions of section 1 of this Act.

Section 5. That § 5-10-6 be amended to read as follows:

5-10-6. The commissioner of school and public lands, after any adjustments that have been made pursuant to section 1 of this Act, shall make a division and apportionment of all funds derived from the leasing of school and public lands, from ~~accrued~~ interest, dividends, and other income on all invested funds derived from the sale of school and public lands, and from ~~accrued~~ interest, dividends, and other income on invested funds derived from the five percent paid to the state by the United States on sales of public lands within the state, such apportionment to be made among the counties, and the educational, penal, and charitable institutions, as provided by law.

Section 6. That § 5-10-18 be amended to read as follows:

5-10-18. The moneys of the common school permanent fund and other educational funds

shall be invested by the State Investment Council, in accordance with the provisions of § 4-5-27.

Section 7. That § 5-10-18.1 be repealed.

~~5-10-18.1. Whenever in the carefully considered judgment of the state investment officer, securities of the United States held in trust by the state as a part of the permanent school fund portfolio, can be sold below their cost, or exchanged at less than their purchase price, in order to secure the highest income compatible with safe investment, the investment officer, with the approval of the Governor as provided in S.D. Const., Art. VIII, § 12, may do so.~~

Section 8. That § 5-10-18.2 be repealed.

~~5-10-18.2. If exchange or sale and repurchase as provided in § 5-10-18.1 is made, all losses to the corpus of the fund shall be restored out of the first additional proceeds of the new investment, or if gains are realized on the exchange or sale of securities, such gains may be used to restore losses, until the entire corpus of the fund has been fully restored.~~

~~If the amount so to be restored exceeds one hundred thousand dollars, such restoration may be amortized over the period between the sale of the securities at a discount and the date of their maturity.~~

Section 9. That § 13-13-1 be amended to read as follows:

13-13-1. ~~Upon receipt of the certificate of the state treasurer as provided in § 5-10-2 the~~  
The commissioner of school and public lands, after any adjustments that have been made  
pursuant to section 1 of this Act, shall apportion the school funds as follows: ~~he the~~  
commissioner shall ascertain from the division of education the total number of resident pupils  
in average daily membership in all schools in each school district and the total number of pupils  
in average daily membership in all schools in the state, and on that basis of the school population,  
~~he the commissioner~~ shall apportion to each school district, pro rata, such share, as its population  
of resident pupils in average daily membership in schools within the school district's boundaries

1 and resident pupils attending private schools, bears to the number of pupils in average daily  
2 membership in all schools in the state. The funds to be apportioned include funds derived from  
3 the lease of school lands, the lease of public lands not apportioned to any educational, penal, or  
4 charitable institution, the ~~accrued~~ interest, dividends, and other income on invested funds derived  
5 from the sale of school lands and public lands not apportioned to any such institution, and the  
6 ~~accrued~~ interest, dividends, and other income on invested funds derived from the five percent  
7 paid by the United States on sale of public lands within the state.

8 Section 10. Whereas, this Act is necessary for the support of the state government and its  
9 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full  
10 force and effect from and after its passage and approval.

# State of South Dakota

SEVENTY-SIXTH SESSION  
LEGISLATIVE ASSEMBLY, 2001

372E0533

## SENATE ENGROSSED NO. **SB 117** - 01/31/2001

Introduced by: Senators Sutton (Dan), Ham, McIntyre, and Olson (Ed) and  
Representatives Garnos, Gillespie, Kooistra, Olson (Mel), and Slaughter

1 FOR AN ACT ENTITLED, An Act to revise certain provisions related to background checks  
2 for school district employees.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 13-10 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 Any school district employee who is employed by more than one school district is only  
7 required to obtain one criminal background investigation, if the background investigation was  
8 conducted no more than five years before the person is first employed by the additional school  
9 district. The results of the background investigation shall be transferred to any additional school  
10 district from the initial school district that obtained the criminal background investigation if the  
11 additional school district or the school district employee requests in writing to the initial school  
12 district that the results be transferred and the school district employee who was the subject of  
13 the criminal background investigation signs a written release authorizing the transfer.